

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

William Charles Graham and Ronald
Jermaine Jackson,

Case No. 21-cv-542 (MJD/LIB)

Plaintiffs,

REPORT AND RECOMMENDATION

v.

United States of America,

Defendant.

This matter comes before the undersigned United States Magistrate Judge upon the routine supervision of the cases that pend before the Court, pursuant to a general assignment made in accordance with the provisions of 28 U.S.C. § 636.

In an Order dated March 22, 2021, this Court ordered Plaintiffs William Charles Graham and Ronald Jermaine Jackson to pay initial partial filing fees of \$35.43 and \$58.08, respectively. (See, Order [Docket No. 5]) (citing 28 U.S.C. § 1915(b)). Plaintiffs were given thirty days to pay these initial partial filing fees. (Order [Docket No. 5]). Plaintiffs were forewarned that if they failed to pay the filing fees in the time permitted, it would be recommended that this action be dismissed without prejudice for failure to prosecute. (Id.) (citing Fed. R. Civ. P. 41(b)).

That deadline has now passed, and although both Graham and Jackson have “accept[ed] for value” this Court’s prior Order, (see, Notice [Docket No. 6], at 1; Notice, [Docket No. 7], at 1), neither Plaintiff has yet paid the required initial partial filing fee. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See, Henderson v. Renaissance Grand Hotel, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action

under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

Therefore, based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. This action be **DISMISSED without prejudice** pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute;
2. Plaintiff Graham's application to proceed in forma pauperis, [Docket No. 2], be **DENIED as moot**; and
3. Plaintiff Jackson's application to proceed in forma pauperis, [Docket No. 4], be **DENIED as moot**.

Dated: April 29, 2021

s/Leo I. Brisbois
Hon. Leo I. Brisbois
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).